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OFFICE OF PETITIONS

In re Application of :
Kil, et al. : DECISION ON PETITION
Application No. 10/645,522 :
Filed: August 22, 2003 :
Atty. Dkt. No: P56857 :

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 10, 2009.

The application was held abandoned July 8, 2008 for failure to timely submit a proper reply to the non-final Office action mailed April 7, 2008. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 28, 2008. A petition under 37 CFR 1.181 was filed December 1, 2008 and dismissed December 22, 2008.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office

action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The instant renewed petition and accompanying documents have been carefully review and found in compliance with procedures to establish non-receipt of an Office communication set forth at MPEP 711.03(c).

In view thereof, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated.

Accordingly, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

This application is being forwarded to Group Art Unit 2444 for re-mailing of the non-final Office action. The time period for reply will be set forth in the newly mailed non-final Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
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